

SERVICE DATE - FEBRUARY 26, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-57 (Sub-No. 53X)

SOO LINE RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN RACINE COUNTY, WI

Decided: February 25, 2004

By decision and notice of interim trail use or abandonment (NITU) served on August 28, 2003, a 180-day period was authorized for the Wisconsin Department of Natural Resources (WisDNR) to negotiate an interim trail use/rail banking agreement with Soo Line Railroad Company (Soo) for an approximately 7.5-mile line of railroad between milepost 18.43 ± (near Kansasville) and milepost 25.93 ± (in Burlington), in Racine County, WI. The negotiating period was scheduled to expire on February 24, 2004.

On February 20, 2004, WisDNR<sup>1</sup> filed a request for an extension of the negotiating period for 180 days. WisDNR states that it has had discussions with Soo but needs more time to finalize the matter. In a response filed by facsimile on February 24, 2004, Soo concurs in the request to extend the negotiating period, but only for 60 days.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).<sup>2</sup> Accordingly, the NITU negotiating period will be extended for an additional 60 days from February 24, 2004 (until April 24, 2004).<sup>3</sup>

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<sup>1</sup> The Wisconsin Department of Transportation is filing on behalf of WisDNR.

<sup>2</sup> Trail use/rail banking is voluntary and can be implemented only if an abandoning railroad agrees to negotiate an agreement. See section 8(d) of the Trails Act. Therefore, the negotiating period may be extended only for the agreed term of 60 days.

<sup>3</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Petitioner's request to extend the NITU negotiating period is granted for a period of 60 days (until April 24, 2004).
2. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary